

Magistrate Judge

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CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL LEE,

Defendant.

No. CR12-5303

PLEA AGREEMENT

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Margaret V. Kurz, Special Assistant United States Attorney for said District, and the defendant, DANIEL LEE, and defendant's attorney, Linda R. Sullivan, enter into the following Plea Agreement, pursuant to Rule 11(c), Federal Rules of Criminal Procedure.

1. The defendant shall enter a plea of guilty to the single count Superseding Information, which charges a violation of 18 U.S.C. §§ 7 and 13, and R.C.W. 46.20.342 (1)(b) (driving while license suspended, 2nd degree).

2. Statutory Penalties. The defendant understands and acknowledges that the statutory penalties for the charge contained in the Superseding Information are

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1 imprisonment for up to three hundred and sixty-four (364) days, a fine of up to five
2 thousand dollars (\$5,000.00), a mandatory twenty-five dollar (\$25.00) special
3 assessment, and one (1) year of supervised release.

4 If the defendant receives a sentence of probation, the probationary period could be
5 up to five (5) years.

6 Defendant understands that supervised release is a period of time following
7 imprisonment during which defendant will be subject to certain restrictions and
8 requirements.

9 Defendant further understands that if supervised release is imposed and
10 defendant violates one or more of its conditions, defendant could be returned to prison for
11 all or part of the term of supervised release that was originally imposed. This could result
12 in defendant serving a total term of imprisonment greater than the statutory maximum
13 stated above.

14 3. Rights Waived by Pleading Guilty. The defendant understands that, by
15 pleading guilty, defendant knowingly and voluntarily waives the following rights:

- 16 a. The right to plead not guilty, and to persist in a plea of not guilty;
17 b. The right to a speedy and public trial before a jury of defendant's
18 peers;
19 c. The right to the effective assistance of counsel at trial, including, if
20 defendant could not afford an attorney, the right to have the Court appoint one for
21 defendant;
22 d. The right to be presumed innocent until guilt has been established at
23 trial, beyond a reasonable doubt;
24 e. The right to confront and cross-examine witnesses against defendant
25 at trial;
26 f. The right to compel or subpoena witnesses to appear on defendant's
27 behalf at trial;

1 g. The right to testify or to remain silent at trial, at which trial such
2 silence could not be used against defendant; and

3 h. The right to appeal a finding of guilt or any pretrial rulings.

4 4. United States Sentencing Guidelines. Defendant understands and
5 acknowledges that, at sentencing, the Court must consider the sentencing range
6 calculated under the United States Sentencing Guidelines (USSG), together with the other
7 factors set forth in 18 U.S.C. § 3553(a), including: (1) the nature and circumstances of the
8 offense; (2) the history and characteristics of the defendant; (3) the need for the sentence
9 to reflect the seriousness of the offense, to promote respect for the law, and to provide
10 just punishment for the offense; (4) the need for the sentence to afford adequate
11 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
12 further crimes of the defendant; (6) the need to provide the defendant with educational
13 and vocational training, medical care, or other correctional treatment in the most effective
14 manner; (7) the kinds of sentences available; (8) the need to provide restitution to
15 victims; and (9) the need to avoid unwarranted sentence disparity among defendants
16 involved in similar conduct who have similar records. Accordingly, defendant
17 understands and acknowledges that:

18 a. The Court is not bound by any recommendation regarding the
19 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
20 range offered by the parties, or by the United States Probation Department; and

21 b. Defendant may not withdraw a guilty plea solely because of the
22 sentence imposed by the Court.

23 5. The defendant acknowledges that no one has promised or guaranteed what
24 sentence the Court will impose.

25 6. Guidelines Calculation. The Government believes that the base offense
26 level for driving while license suspended second degree under the Guidelines would be 6.
27 The Government believes that if the defendant receives a two level reduction for

1 acceptance of responsibility, the base offense level would be 4. The Government
2 believes that the defendant's criminal history category is I, thus under the Guidelines
3 schedule the defendant's sentencing range would be 0 to 6 months.

4 7. The Ultimate Sentence. The defendant acknowledges that no one has
5 promised or guaranteed what sentence the Court will impose and that the defendant may
6 not withdraw a guilty plea solely because the sentence imposed by the Court may be
7 different from the recommendation of the Government.

8 8. Sentencing Recommendation. At the time of sentencing, the parties will
9 jointly recommend no jail time, no fine, the mandatory twenty-five dollar (\$25.00)
10 special assessment, and three (3) years probation with the following conditions:

11 a). The defendant shall participate as instructed by defendant's U.S.
12 Probation Officer in a program approved by the probation office for
13 treatment of alcohol or narcotic addiction, drug dependency or substance
14 abuse, which may include testing to determine if the defendant has reverted
15 to the use of alcohol or drugs, and an evaluation for alcohol or drug
16 dependency. The defendant shall submit to one drug and/or alcohol test
17 within 15 days of placement on probation (or release from imprisonment)
18 and at least two periodic drug and/or alcohol tests thereafter not to exceed
19 eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18
20 U.S.C. § 3583(d). The defendant shall also abstain from the use of alcohol
21 and/or other intoxicants during the term of supervision. Defendant must
22 contribute towards the cost of any programs, to the extent defendant is
23 financially able to do so, as determined by the U.S. Probation Officer.

24 b). The defendant shall not enter any establishment where alcohol is the
25 primary commodity for sale.

26 c). The defendant shall not drive without a valid license or insurance.

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1 9. Statement of Facts. The parties stipulate to the following facts in support of
2 the plea:

3 On June 12, 2012, at Joint Base Lewis-McChord, Washington,
4 within the Western District of Washington and within the special maritime
5 and territorial jurisdiction of the United States, access control officers at the
6 Liberty Gate observed a silver Honda Insight with Texas plates approach
7 their position. The driver displayed a Washington state identification card
8 and was identified as DANIEL LEE, the defendant. The defendant was
9 unable to provide a driver's license. A check of the defendant's driving
privileges indicated a ~~Washington~~ suspension. The defendant was cited and
released. DL AK MB


10 10. Acceptance of Responsibility. The United States acknowledges that
11 defendant has assisted the United States by timely notifying the authorities of defendant's
12 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
13 and permitting the Court to allocate its resources efficiently.


14 11. Voluntariness of Plea. Defendant acknowledges that he/she has entered
15 into this Plea Agreement freely and voluntarily, and that no threats or promises, other
16 than the promises contained in this Plea Agreement, were made to induce the defendant
17 to enter this plea of guilty.

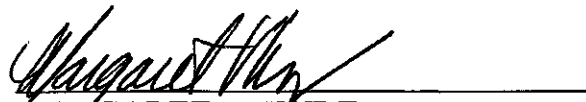
18 12. Immigration Consequences. Defendant understands that, if a non-citizen of
19 the United States, entering a guilty plea may have consequences regarding immigration
20 status. Certain crimes are deportable offenses, and a plea of guilty to any such crime may
21 subject defendant to automatic deportation and removal from the United States. *See* 8
22 U.S.C. § 1227(a)(2). Defendant affirms that he/she has been advised of the potential
23 immigration consequences that may result from the entry of the guilty plea(s)
24 contemplated by this Agreement and is prepared to proceed with his/her guilty plea(s)
25 regardless of any immigration consequences that may result from this/these guilty plea(s),
26 even if such consequences include automatic deportation and removal from the United
27 States.

1 13. Completeness of Agreement. The United States and the defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Plea Agreement only binds the United States Attorney's Office for the Western
4 District of Washington. It does not bind any other United States Attorney's Office or any
5 other office or agency of the United States, or any state or local prosecutor.

6 DATED this 3rd day of December, 2012.

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9 
10 DANIEL LEE
11 Defendant

12 
13 LINDA R. SULLIVAN
14 Attorney for Defendant

15 
16 MARGARET V. KURZ
17 Special Assistant United States Attorney